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Shelby Cnty Judge of Probate, AL
06/22/2005 10:22:53AM FILED/CERT

Unit:

Unit #548 – 101 Inverness Corners, Birmingham, Shelby County,
Alabama 35242

This instrument was prepared by
~~and, when recorded, should be returned to:~~
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road
Atlanta, GA 30326
Attn: Frederick C. C. Boyd, III, Esq.

Return Recorded Documents To:

LandAmerica National Commercial Services
450 S. Orange Avenue, Suite 170
Orlando, FL 32801
Attention: Christi Pawlak 04-000356

LEASEHOLD MORTGAGE,
ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING

dated as of August 5, 2004

from

VALENTI SOUTHEAST REALTY, LLC,
a Florida limited liability company,

as Mortgagor,

to

BANK OF AMERICA, N.A.,
a national banking association,

as Mortgagee

Premises: Unit #548 – 101 Inverness Corners, Birmingham, Shelby County, Alabama 35242

**LEASEHOLD MORTGAGE,
ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING**

THIS LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (herein called this "Mortgage") dated as of August 5, 2004 is executed by VALENTI SOUTHEAST REALTY, LLC, a Florida limited liability company, as the mortgagor (herein, together with its successors and assigns, called "Mortgagor"), with a mailing address at 3450 Buschwood Park Drive, Suite 195, Tampa, Florida 33618, to BANK OF AMERICA, N.A., a national banking association, as the mortgagee (herein, together with its successors and assigns, called "Mortgagee"), with a mailing address at GA1-006-13-20, 600 Peachtree Street, NE, Atlanta, Georgia 30308-2214.

RECITALS

A. Loan Agreement. Reference is hereby made to that certain Development and Term Loan Agreement (the "Loan Agreement") dated of even date herewith, by and between Valenti Southeast Management, LLC, a Florida limited liability company ("VSM"), Valenti Southeast Realty, LLC, a Florida limited liability company ("VSR") (VSM and VSR are referred to herein individually as an "Obligor" and collectively as the "Obligors"), and Mortgagor, as borrower, and Mortgagee, as lender. Pursuant to the Loan Agreement, Mortgagee has agreed to loan certain funds to Mortgagor (the "Loan") and Mortgagor and Obligor have executed and delivered to Mortgagee that certain Note or Notes evidencing Mortgagor and Obligor's obligation to repay the Loan (collectively, the "Note"). The total amount of the Note, as referred to herein, is
\$11,259,482.00

B. Secured Obligations. The obligations secured by this Mortgage (the "Obligations") are comprised at any time of the following:

(i) the full and punctual payment by Mortgagor and Obligor when due of (a) all principal of and interest on the Loan and the Note; and (b) all other amounts payable by Mortgagor and Obligor pursuant to the Loan Agreement, the Note or any other document or instrument evidencing or securing the Loan (together with the Loan Agreement, the Note and this Mortgage, the "Loan Documents" or individually a "Loan Document");

(ii) the full and punctual payment when due of all amounts payable by Mortgagor under this Mortgage, including, without limitation, indemnification obligations and advances made pursuant to the Loan Documents;

(iii) the performance and observance by Mortgagor and Obligor of each other term, covenant, agreement, requirement, condition and other provision to be performed or observed by Mortgagor and Obligor under any Loan Document;

(iv) the performance and observance by Mortgagor and Obligor of each other term, covenant, agreement, requirement, condition and other provision to be performed or observed by Mortgagor and Obligor under all amendments, supplements, consolidations, replacements, renewals, extensions or other modifications of the foregoing, in each case whether now existing or hereafter arising; and

(v) any and all other indebtedness, liabilities and obligations of every nature whatsoever (whether or not otherwise secured or to be secured) of Mortgagor and Obligor (whether as maker, endorser, surety, guarantor or otherwise) to Mortgagee and/or Mortgagee's affiliates, whether now existing or hereafter created or arising or now owned or howsoever hereafter acquired by Mortgagee and/or Mortgagee's affiliates, whether such indebtedness, liabilities and obligations are or will be joint or several, direct or indirect, absolute or contingent, liquidated or unliquidated, matured or unmatured, including, but not limited to, any letter of credit issued by Mortgagee for the account of Mortgagor or Obligor and any Swap Agreement (as defined in the Loan Agreement); together with all expenses, attorneys' fees,

paralegals' fees and legal assistants' fees incurred by Mortgagee and/or Mortgagee's affiliates in the preparation, execution, perfection or enforcement of any document relating to any of the foregoing.

The Obligations shall include, without limitation, any interest, costs, fees and expenses which accrue on or with respect to any of the foregoing, whether before or after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency or reorganization of Mortgagor.

GRANTING CLAUSES

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, for the purpose of securing the due and punctual payment, performance and observance of the Obligations and intending to be bound hereby, Mortgagor hereby grants, conveys, mortgages, bargains, sells, transfers and assigns to Mortgagee as expressly set forth below, and for the purpose and upon the terms and conditions hereinafter set forth, with power of sale and right of entry and possession, all of the property and rights described in the following Granting Clauses (all of which property and rights are herein collectively called the "Mortgaged Property"), to wit:

GRANTING CLAUSE I

Land. All estate, right, title and interest of Mortgagor in, to, under or derived from those certain lots, pieces, tracts or parcels of land located in certain cities and/or counties in the State of Alabama, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Real Estate"; together with the Leasehold Estate, herein called the "Land").

Leasehold Estate. All estate, right, title and interest of Mortgagor in, to, under or derived from the lease described in Exhibit A, Part II (the "Site Lease") affecting the Real Estate (the "Leasehold Estate"); together with all amendments, supplements, consolidations, extensions, renewals and other modifications of the Site Lease now or hereafter entered into in accordance with the provisions thereof; together with all other, further, additional or greater estate, right, title or interest of Mortgagor in, to, under or derived from the Real Estate, the Leasehold Estate and the Improvements now or hereafter located thereon which may at any time be acquired by Mortgagor by the terms of the Site Lease by reason of the exercise of any option thereunder or otherwise.

GRANTING CLAUSE II

Improvements. All right, title and interest of Mortgagor in, to, under or derived from all buildings, structures, facilities and other improvements of every kind and description now or hereafter located on the Land or attached to the improvements which by the nature of their location thereon or attachment thereto are real property under applicable law (the foregoing being collectively the "Improvements"; and the Land with the Improvements thereon and Equipment therein and Appurtenant Rights thereto being collectively called the "Premises").

GRANTING CLAUSE III

Equipment. All estate, right, title and interest of Mortgagor in, to, under or derived from all machinery, equipment, fixtures and accessions thereof and renewals, replacements thereof and substitutions therefor, and all other customary franchise restaurant equipment and other tangible property of every kind and nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest, now or hereafter located upon the Land, or usable exclusively in connection with the present or future operation and occupancy of the Land or the Improvements (hereinafter collectively called the "Equipment").

GRANTING CLAUSE IV

Appurtenant Rights. All estate, right, title and interest of Mortgagor in, to, under or derived from all tenements, hereditaments and appurtenances now or hereafter relating to the Land; all development, operating or similar rights appurtenant to the Land (including, without limitation, all rights arising from reciprocal access

agreements, use or development agreements, and parking agreements); and all easements, licenses and rights of way now or hereafter appertaining to the Land (hereinafter collectively called "Appurtenant Rights").

GRANTING CLAUSE V

General Intangibles, Payment Rights and Agreements. All estate, right, title and interest of Mortgagor in, to, under or derived from all contract rights, chattel paper, instruments, general intangibles, accounts, guaranties and warranties, letters of credit, and documents, in each case relating to the Premises or to the present or future operation or occupancy of the Premises, and all plans, specifications, maps, surveys, studies, records, insurance policies, guarantees and warranties, all relating to the Premises or to the present or future operation or occupancy of the Premises, all management contracts, all supply and service contracts for water, sanitary and storm sewer, drainage, electricity, steam, gas, telephone and other utilities relating to the Premises (the foregoing being herein collectively called the "Agreements") and all other agreements affecting or relating to the use, enjoyment or occupancy of the Land or the Equipment.

GRANTING CLAUSE VI

Leases. All estate, right, title and interest of Mortgagor in, to, under and derived from any lease, tenancy, subtenancy, license, concession or other occupancy agreement relating to the Premises (together with all amendments, supplements, consolidations, replacements, restatements, extensions, renewals and other modifications of any thereof) (the "Leases"), other than the Site Lease assigned under Granting Clause I, now or hereafter in effect, whether or not of record; and the right to bring actions and proceedings under the Lease or for the enforcement thereof and to do anything which Mortgagor or any lessor is or may become entitled to do under the Lease.

GRANTING CLAUSE VII

Rents, Issues and Profits. All estate, right, title and interest of Mortgagor in, to, under or derived from all rents, royalties, issues, profits, receipts, revenue, income, earnings and other benefits now or hereafter accruing with respect to all or any portion of the Premises, including all rents and other sums now or hereafter payable pursuant to the Leases; and all other claims, rights and remedies now or hereafter belonging or accruing with respect to the Premises, including oil, gas and mineral royalties (herein collectively called the "Rents"), all of which Mortgagor hereby irrevocably directs be paid to Mortgagee, subject to the license granted to Mortgagor pursuant to Section 5.08, to be held, applied and disbursed as provided in this Mortgage.

GRANTING CLAUSE VIII

Permits All estate, right, title and interest of Mortgagor in, to, under or derived from all licenses, certificates, variances, consents and other permits now or hereafter pertaining to the Premises and all estate, right, title and interest of Mortgagor in, to, under or derived from all tradenames or business names relating to the Premises or the present or future operation or occupancy of the Premises (herein collectively called the "Permits"), excluding, however, from the grant under this Granting Clause (but not the definition of the term "Permits" for the other purposes hereof) any Permits which cannot be transferred or encumbered by Mortgagor without causing a default thereunder or a termination thereof.

GRANTING CLAUSE IX

Proceeds and Awards. All estate, right, title and interest of Mortgagor in, to, under or derived from all proceeds of any sale, transfer, taking by Condemnation (or any proceeding or purchase in lieu thereof), whether voluntary or involuntary, of any of the Mortgaged Property described above, including all Insurance Proceeds and awards and title insurance proceeds, now or hereafter relating to any of the Mortgaged Property, all of which Mortgagor hereby irrevocably directs be paid to Mortgagee to the extent provided hereunder, to be held, applied and disbursed as provided in this Mortgage.

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee, its successors and assigns, under and subject to the terms and conditions of this Mortgage, and for the security and enforcement of the prompt

and complete payment and performance when due of all of the Obligations and the performance and observance by Mortgagor of all covenants, obligations and conditions to be performed or observed by Mortgagor pursuant to the Loan Agreement, the Note, and the other Loan Documents.

PROVIDED, HOWEVER, that this Mortgage is upon the condition that, if Mortgagor shall pay in full all of the Obligations and perform and observe all such covenants, obligations and conditions, this Mortgage shall cease, terminate pursuant to and in accordance with Section 6.02 and, thereafter, be of no further force effect (except as provided in Sections 4.01, 4.02 and 5.07 hereof); otherwise this Mortgage shall remain and be in full force and effect.

FURTHER PROVIDED, that Mortgagee may from time to time release or reconvey all or a portion of the Mortgaged Property, in accordance with the terms and conditions of the Loan Agreement and applicable law.

MORTGAGOR ADDITIONALLY COVENANTS AND AGREES WITH MORTGAGEE AS FOLLOWS:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. Capitalized terms used, but not otherwise defined herein, are defined in, or by reference to the Loan Agreement and have the same meanings herein as therein.

ARTICLE II

CERTAIN WARRANTIES AND COVENANTS OF MORTGAGOR

SECTION 2.01. Authority and Effectiveness. (a) Mortgagor represents, warrants and covenants that (i) Mortgagor is and shall be a limited liability company duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, and qualified to do business and in good standing in the state in which the Premises is located and has and will have all governmental licenses, authorizations, consents and other qualifications required to carry on its business as now conducted, to own the Mortgaged Property and to execute, deliver and perform this Mortgage; (ii) the execution, delivery and performance by Mortgagor of this Mortgage are within Mortgagor's limited liability company power, have been duly authorized by all necessary limited liability company action, require no action by or in respect of, or filing with, any governmental body, agency or official and do not and will not contravene, or constitute a default under, any provision of the organizational documents of Mortgagor or of any agreement, judgment, injunction, order, decree or other instrument binding upon Mortgagor or relating to the Premises; and (iii) this Mortgage constitutes a legal, valid, binding and enforceable agreement of Mortgagor.

(b) Mortgagor shall cause the representations and warranties in subsection (a) of this Section to continue to be true in each and every respect at all times prior to the termination of this Mortgage.

SECTION 2.02. Title and Further Assurances. (a) Mortgagor hereby represents and warrants to Mortgagee that:

(i) Mortgagor is the owner of a valid and subsisting leasehold interest in the Land and the Improvements and holds good and marketable title to the Improvements, the Equipment and the Mortgaged Property, free from all liens, security interests, Leases, charges or encumbrances whatsoever, except for such liens as are permitted under the Loan Agreement ("Permitted Liens");

(ii) Mortgagor has good and lawful right to mortgage the Mortgaged Property to Mortgagee without the consent of any Person other than those consents which have been obtained;

(iii) the lien created by this Mortgage constitutes a valid, binding and enforceable lien on the Mortgaged Property;

(iv) the Site Lease creates and constitutes in the tenant thereunder a valid and subsisting leasehold interest in the Leasehold Estate; the Site Lease has not been modified or amended, except as disclosed to Mortgagee in writing; there is no default under the Site Lease, all rents due have been paid in full; no action has commenced and is pending to terminate the Site Lease; and Mortgagor is the owner of the leasehold interest under the Site Lease and Mortgagor is the owner of the Improvements, in each case subject to the provisions of the Site Lease; and

(v) the Permitted Liens do not materially interfere with or materially adversely affect the use, value or operation of the Premises.

(b) Mortgagor shall (i) cause the representations and warranties in subsection (a) of this Section to continue to be true in each and every respect at all times prior to the termination of this Mortgage; and (ii) preserve, protect, warrant and defend (A) the estate, right, title and interest of Mortgagor in and to its Mortgaged Property (B) the validity, enforceability and priority of the lien of this Mortgage, and (C) the right, title and interest of Mortgagee and any purchaser at any sale of the Mortgaged Property hereunder or relating hereto.

(c) Upon full execution, acknowledgment and the recording of this Mortgage in the county recording office of the county in which the Land is located, the lien of this Mortgage shall be a perfected mortgage lien and fixture filing on the Mortgaged Property.

(d) Mortgagor shall perform all acts that may be necessary to continue, maintain, preserve, protect and perfect the Mortgaged Property, the lien granted to Mortgagee therein and the perfected priority of such lien. Upon request by Mortgagee, Mortgagor shall at its sole cost and expense (i) promptly correct any defect or error which may be discovered in this Mortgage or any financing statement or other document relating hereto; and (ii) promptly execute, acknowledge, deliver, record, and re-record, register and re-register, and file and re-file this Mortgage and any fixture filings, financing statements or other documents which Mortgagee may reasonably require from time to time (all in form and substance reasonably satisfactory to Mortgagee) in order (A) to effectuate, complete, perfect, continue or preserve the lien of this Mortgage on the Mortgaged Property, whether now owned or hereafter acquired, (B) to correct or change the name of Mortgagor following any change in its identity or sale of the Mortgaged Property, or (C) to effectuate, complete, perfect, continue or preserve any right, power or privilege granted or intended to be granted to Mortgagee hereunder.

SECTION 2.03. Secured Obligations. Mortgagor shall duly and punctually pay, perform and observe the Obligations binding upon Mortgagor.

SECTION 2.04. Impositions. Subject to Section 2.06 and Section 2.09, Mortgagor shall (i) duly and punctually pay all Impositions before any fine, penalty, interest or cost may be added for nonpayment; and (ii) promptly notify Mortgagee of the receipt by Mortgagor of any notice of default in the payment of any Imposition. The term "Impositions" means all taxes, assessments and other governmental charges, ground rents, or other rents, charges, excises, levies, fees and other charges (public or private) which may be assessed, levied or imposed on, or in respect of or be a lien upon the Mortgaged Property or any part thereof or any interest therein.

SECTION 2.05. Compliance with Legal and Insurance Requirements. (a) Mortgagor represents and warrants that (i) as of the date hereof, the Premises and the use and operation thereof comply in all material respects with all Legal Requirements (as defined below), Insurance Requirements (as defined below) and Contractual Obligations; (ii) there is no material default under any Legal Requirement, Insurance Requirement and Contractual Obligation; and (iii) the execution, delivery and performance of this Mortgage does not require any consent the failure of which to obtain would contravene any provision of and constitute a material default under, any Legal Requirement, Insurance Requirement or Contractual Obligation. Notwithstanding the limitations set forth in the preceding sentence, Mortgagor represents and warrants that as of the date hereof, the Premises and the use thereof comply with all Environmental Laws and that Mortgagor has complied and shall comply with all Environmental Laws.

(b) Subject to Section 2.06 and Section 2.09, Mortgagor shall promptly perform and observe, or cause to be performed and observed and cause the Premises to comply with, if the failure to so perform and observe would have a Material Adverse Effect, (i) all laws, rules, regulations, judgments, orders, permits, licenses, authorizations and other requirements of and agreements with all governments, department agencies, courts and officials, which now or hereafter shall be applicable to the Mortgaged Property or any part thereof or any use or condition thereof including, without limitation, all Environmental Laws (herein collectively called the "Legal Requirements"); (ii) all terms of any insurance policy covering or applicable to the Mortgaged Property or any part thereof as required by the Loan Agreement, all requirements of the issuer of any such policy, and all orders, rules, regulations and other requirements of the National Board of Fire Underwriters (or any other body exercising similar functions) applicable to the Mortgaged Property or any part thereof or any use or condition thereof (herein collectively called the "Insurance Requirements"); and (iii) all Permits required for any construction, reconstruction, repair, alteration, addition, improvement, maintenance, use and operation of the Premises.

(c) Mortgagor shall promptly notify Mortgagee of the receipt by Mortgagor of any notice of default under any Legal Requirement, Insurance Requirement, Contractual Obligation, Permitted Lien or Permit or of the receipt by Mortgagor of any notice of any threatened or actual termination of any Permit or Insurance Policy and furnish to Mortgagee a copy of such notice of default or termination.

SECTION 2.06. Impound and Security Account. At Mortgagee's option and upon its demand and except where and to the degree prohibited by law, Mortgagor shall, until all Obligations have been paid in full, pay to Mortgagee each month an amount estimated by Mortgagee to be equal to (i) the Impositions, (ii) all payments and premiums with respect to the Insurance Requirements, and (iii) all lease payments under the Site Lease next due. Estimated payments of Impositions, Insurance Requirements and Site Lease payments shall be calculated by dividing the amount next due by, in each instance, the number of months to lapse preceding the month in which the same, respectively, will become due. All sums so paid shall not bear interest, except to the extent and in the minimum amount required by law, and Mortgagee shall, unless Mortgagor is otherwise in default hereunder or under any obligation secured hereby, apply said funds to the payment of, or at the sole option of Mortgagee release said funds to Mortgagor for application to and payment of, such Impositions, Insurance Requirements and Site Lease payments. However, upon the occurrence of an Event of Default by Mortgagor hereunder or under any obligation secured hereby, Mortgagee may, at its sole option, apply all or any part of said sums to any Obligations or to advance sums to pay such Imposition, Insurance Requirement or Site Lease payment, which advance shall not cure Mortgagor's default hereunder.

SECTION 2.07. Sale; Liens (a) Except as otherwise provided in the Loan Agreement, Mortgagor shall not sell, assign, transfer, convey, lease, mortgage, pledge, hypothecate, or permit to be sold, assigned, transferred, conveyed, leased, mortgaged, pledged, hypothecated or otherwise disposed of, the Mortgaged Property or any part thereof or interest therein (for the purposes of this Section, a "Transfer"), and shall not create, suffer or permit to be created or exist any lien attaching to the Mortgaged Property or any part thereof or interest therein, except as permitted by the Loan Agreement. In the event of any Transfer or the creation, suffering, permitting to be created of any lien attaching to the Mortgaged Property or any part thereof, that is not expressly permitted hereunder or under the terms of the Loan Agreement and is without the prior written consent of Mortgagee, Mortgagee shall have the absolute right at its option, without prior demand or notice, to declare all of the Obligations immediately due and payable and pursue its rights and remedies under Article V. Consent to one such Transfer or lien shall not be deemed to be a waiver of the right to require the consent to future or successive Transfers or liens. Mortgagee shall have the right to grant or deny such consent in its absolute discretion. If consent should be given to a Transfer and if this Mortgage is not released to the extent of the Mortgaged Property transferred or subjected to a lien by a writing signed by Mortgagee and recorded in the proper city, town, county or parish records, then any such Transfer or lien shall be subject to this Mortgage and any such transferee shall assume all obligations hereunder and agree to be bound by all of the provisions contained hereunder.

(b) The Loan may be not assumed by a new borrower without the express written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion.

SECTION 2.08. Status and Care of the Premises.

(a) Mortgagor represents and warrants that (i) the Premises is served by all necessary water, sanitary and storm sewer, electric, gas, telephone and other utility facilities which facilities have capacities which are sufficient to serve the current and anticipated future use and occupancy of the Premises as presently constructed; (ii) the Premises has legal access to public streets or roads sufficient to serve the current and anticipated future use and operation of the Premises as presently constructed; (iii) to the extent that the Premises is located in an area identified by the Secretary of Housing and Urban Development or a successor thereto as an area having special flood hazards or as an area designated as "flood prone" or a "flood risk area" pursuant to the National Flood Insurance Act of 1968 or the Flood Disaster Protection Act of 1973, and any amendments or supplements thereto or substitutions therefor, Mortgagor has purchased flood insurance to the extent available; and (iv) all activities and conditions on the Premises are currently in compliance with all Legal Requirements.

(b) Mortgagor (i) shall use and operate the Premises, or cause the same to be used and operated as a restaurant; (ii) agrees that all activities on the Premises shall at all times comply with all Legal Requirements; (iii) shall operate and maintain the Premises, or cause the same to be operated and maintained, in good order, repair and condition except (subject to the provisions of this Section) for reasonable wear and tear; (iv) subject to the provisions of Section 3.02, shall promptly make, or cause to be made, all repairs, replacements, alterations, additions and improvements of and to the Premises necessary or appropriate to keep the Premises in good order, repair and condition; (v) shall not initiate or affirmatively support any change in the applicable zoning adversely affecting the Premises, seek any variance (or any change in any variance), under the zoning adversely affecting the Premises; and (vi) shall, promptly after receiving notice or obtaining knowledge of any proposed or threatened change in the zoning affecting the Premises which would result in the current use of the Premises being a non-conforming use, notify Mortgagee thereof and diligently contest the same at Mortgagor's expense by any action or proceeding deemed appropriate by Mortgagor or requested by Mortgagee.

SECTION 2.09. Permitted Contests. After prior notice to Mortgagee, Mortgagor may contest at Mortgagor's expense, by appropriate legal or other proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any Imposition or lien therefor, any Legal Requirement, or any lien of any laborer, mechanic, materialman, supplier or vendor, provided that (a) the Mortgaged Property, or any part thereof or estate or interest therein, shall not be in any danger of being sold, forfeited or lost by reason of such proceedings; (b) in the case of (i) liens of laborers, mechanics, materialmen, suppliers or vendors or (ii) the Impositions, or liens therefor, such proceedings shall suspend the foreclosure of any such lien or any other collection thereof from the Mortgaged Property; (c) in the case of a Legal Requirement, Mortgagee shall not be in any danger of any criminal liability or, unless Mortgagor shall have furnished a bond or other security therefor reasonably satisfactory to Mortgagee, any additional civil liability for failure to comply therewith, and the Mortgaged Property, or any part thereof or estate or interest therein, shall not be subject to the imposition of any lien as a result of such failure which is not properly contested pursuant to this Section 2.09; and (d) if reasonably required by Mortgagee, Mortgagor shall have furnished to Mortgagee a bond or other security reasonably satisfactory to Mortgagee.

SECTION 2.10. Inspection. Mortgagee and its authorized agents and employees and any person designated by Mortgagee shall have the right to enter on and into the Premises at all reasonable times and, except in the event of an emergency, after reasonable notice for the purpose of inspecting the same, provided such inspection shall not unreasonably disturb business activities at the Premises.

SECTION 2.11. Compliance with Instruments. Mortgagor shall promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all other instruments affecting the Premises if the failure to so perform or observe would have a Material Adverse Effect and shall do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of or constituting any portion of the Mortgaged Property if the failure so to do would have a Material Adverse Effect.

SECTION 2.12. Improvements. All improvements on the Land lie wholly within the boundary and building restriction lines of the Land and no improvements on adjoining properties encroach upon the Land in any respect so as to have a Material Adverse Effect on the use, operation or value of the Premises.

SECTION 2.13. Casualty; Condemnation. The Mortgaged Property is free of material damage and waste and, to Mortgagor's knowledge, there is no proceeding pending or threatened for the total or partial Condemnation thereof.

SECTION 2.14. Zoning and Other Laws. The Premises and the use thereof, separate and apart from any other properties, constitute a legal and conforming use in compliance with the zoning regulations for which the Premises is located. The Premises complies with all applicable subdivision laws, ordinances and regulations, such that failure to comply would not have a Material Adverse Effect. All inspections, licenses and certificates required, whether by law, ordinance, regulation or insurance standards, to be made or issued with respect to the Premises have been made by or issued by appropriate authorities, such that a failure to obtain such inspections, licenses or certificates would not have a Material Adverse Effect.

SECTION 2.15. Site Lease. (a) Mortgagor represents and warrants that (i) Exhibit A, Part II contains a description of the Site Lease; (ii) Mortgagor has furnished to Mortgagee a copy of the Site Lease certified as true and correct by Mortgagor; (iii) except as described in Exhibit A, Part II, the Site Lease has not been modified, assigned by Mortgagor or, to the knowledge of Mortgagor, assigned by the landlord thereunder; (iv) the Site Lease is in full force and effect and, to the knowledge of Mortgagor, there is no default, or existing condition which with the giving of notice or passage of time or both would cause a default under the Site Lease; and (v) the execution, delivery and performance of this Mortgage do not require any consent under, and will not contravene any provision of or cause a default under, the Site Lease.

(b) Mortgagor (i) shall duly and punctually pay, perform and observe (unless being paid pursuant to Section 2.6 or being contested pursuant to Section 2.9) all of its obligations under the Site Lease; (ii) shall do all things reasonably necessary or appropriate to enforce, preserve and keep unimpaired the rights of Mortgagor; (iii) shall not enter into any amendment or other agreement or take any other action or fail to take any action that would modify or terminate any rights or obligations of Mortgagor or of the landlord under the Site Lease or subordinate any right of Mortgagor under the Site Lease to any lien; (iv) shall notify Mortgagee in writing not later than ninety (90) days prior to the last date on which Mortgagor can exercise (A) any right to extend the term of the Site Lease or (B) any option to purchase or otherwise acquire the interest of the landlord under the Site Lease, of the existence of such right or option; (v) to the extent the current term of the Site Lease does not extend beyond the maturity date of the Loan, shall exercise (not later than thirty (30) days prior to the last date on which Mortgagor may timely do so) each right or option of Mortgagor under the Site Lease to extend the term thereof; (vi) shall notify Mortgagee (promptly after receipt or contemporaneously when given, as the case may be) of the receipt or giving by Mortgagor of any notice of default under, or any notice of the possible or actual termination of, the Site Lease, accompanied by a copy of such notice (the failure of Mortgagor to comply with this subclause (vi) shall constitute an Event of Default hereunder); and (vii) shall promptly notify Mortgagee, upon Mortgagor's acquisition of knowledge thereof, of the occurrence of any event or condition which with the passage of time or giving of notice would constitute a default under the Site Lease.

(c) So long as any portion of the Obligations shall remain unpaid, unless Mortgagee shall otherwise consent, the fee title to the Land and the leasehold estate therein created pursuant to the provisions of the Site Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in Mortgagor, the owner, or in any other person by purchase, operation of law or otherwise. Mortgagee reserves the right, at any time, to release portions of the Mortgaged Property, including, but not limited to, the leasehold estate created by the Site Lease, with or without consideration, at Mortgagee's election, without waiving or affecting any of its rights hereunder or under the Loan Documents and any such release shall not affect Mortgagee's rights in connection with the portion of the Mortgaged Property not so released.

(d) So long as any portion of the Obligations remains unpaid, if Mortgagor shall become the owner and holder of the fee title to the Land, the lien of this Mortgage shall be spread to cover Mortgagor's fee title to the Land and said fee title shall be deemed to be included in the Mortgaged Property. Mortgagor agrees to execute any and all documents or instruments necessary to subject its fee title to the Land to the lien of this Mortgage, in form and substance satisfactory to Mortgagee.

(e) Mortgagor hereby unconditionally assigns, transfers and sets over to Mortgagee all of Mortgagor's claims and rights to the payment of damages arising from any rejection by the owner of the Site Lease under the Bankruptcy Code. Mortgagee shall have the right to proceed in its own name or in the name of Mortgagor in respect of any claim, suit, action or proceeding relating to the rejection of the Site Lease, including, without limitation, the right to file and prosecute, to the exclusion of Mortgagor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the owner under the Bankruptcy Code. Subject to the provisions of Section 6.15, this assignment constitutes a present, irrevocable and unconditional assignment of the foregoing claims, rights and remedies, and shall continue in effect until all of the Obligations shall have been satisfied and discharged in full. Any amounts received by Mortgagee as damages arising out of the rejection of the Site Lease as aforesaid shall be applied first to all costs and expenses of Mortgagee (including, without limitation, attorneys' fees and disbursements) incurred in connection with the exercise of any of its rights or remedies under this Section 2.15(e).

(f) Mortgagor shall not, without Mortgagee's prior written consent, elect to treat the Site Lease as terminated under Section 365(h)(1) of the Bankruptcy Code. Any such election made without Mortgagee's prior written consent shall be void.

(g) If pursuant to Section 365(h)(1) of the Bankruptcy Code, Mortgagor seeks to offset against the Rent reserved in the Site Lease the amount of any damages caused by the non-performance by the owner of any of the owner's obligations under the Site Lease after the rejection by the owner of the Site Lease under the Bankruptcy Code, Mortgagor shall, prior to effecting such offset, notify Mortgagee of its intention to do so, setting forth the amounts proposed to be so offset and the basis therefor. Mortgagee shall have the right, within (10) days after receipt of such notice from Mortgagor, to reasonably object to all or any part of such offset, and, in the event of such reasonable objection, Mortgagor shall not effect any offset of the amounts so objected to by Mortgagee for a period of thirty (30) days after Mortgagee has delivered its objection notice to Mortgagor during which time Mortgagee shall have the right to bring its objections to the attention of any court supervising the bankruptcy of the owner of the Site Lease and both Mortgagee and Mortgagor agree to abide by the decision of any such court. If (A) Mortgagee has failed to object as aforesaid within ten (10) days after notice from Mortgagor or (B) the court fails to render its decision within the above-mentioned thirty (30) day period, Mortgagor may proceed to effect such offset in the amounts set forth in Mortgagor's notice. Neither Mortgagee's failure to object as aforesaid nor any objection or other communication between Mortgagee and Mortgagor relating to such offset shall constitute an approval of any such offset by Mortgagee.

(h) If any action, proceeding, motion or notice shall be commenced or filed in respect of Mortgagor or the Mortgaged Property in connection with any case under the Bankruptcy Code (other than a case under the Bankruptcy Code commenced with respect to Mortgagor), Mortgagee shall have the option, to the exclusion of Mortgagor, exercisable upon notice from Mortgagee to Mortgagor, to conduct and control any such litigation with counsel of Mortgagee's choice. Mortgagee may proceed in its own name or in the name of Mortgagor in connection with any such litigation, and Mortgagor agrees to execute any and all powers, authorizations, consents and other documents required by Mortgagee in connection therewith. Mortgagor shall pay to Mortgagee all costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) paid or incurred by Mortgagee in connection with the prosecution or conduct of any such proceedings within five (5) days after notice from Mortgagee setting forth such costs and expenses in reasonable detail. Any such costs or expenses not paid by Mortgagor as aforesaid shall be secured by the lien of this Mortgage and shall be added to the principal amount of the indebtedness secured hereby. Mortgagor shall not commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Site Lease in any such case under the Bankruptcy Code (other than a case under the Bankruptcy Code commenced with respect to Mortgagor) without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld.

(i) Mortgagor shall promptly, after obtaining knowledge thereof, notify Mortgagee of any filing by or against the owner of the Land of a petition under the Bankruptcy Code, setting forth any information available to Mortgagor as to the date of such filing, the court in which such petition was filed, and the relief sought therein. Mortgagor shall promptly deliver to Mortgagee following receipt any and all notices, summonses,

pleadings, applications and other documents received by Mortgagor in connection with any such petition and any proceedings relating thereto.

(j) If there shall be filed by or against Mortgagor a petition under the Bankruptcy Code, and Mortgagor, as the tenant under the Site Lease, shall determine to reject the Site Lease pursuant to Section 365(a) of the Bankruptcy Code, then Mortgagor shall give Mortgagee not less than ten (10) days' prior notice of the date on which Mortgagor shall apply to the bankruptcy court for authority to reject the Site Lease. Mortgagee shall have the right, but not the obligation, to serve upon Mortgagor within such 10-day period a notice stating that (i) Mortgagee demands that Mortgagor assume and assign the Site Lease to Mortgagee pursuant to Section 365 of the Bankruptcy Code and (ii) Mortgagee covenants to cure or provide adequate assurance of prompt cure of all defaults and provide adequate assurance of future performance of Mortgagor's obligations under the Site Lease. If Mortgagee serves upon Mortgagor the notice described in the preceding sentence, Mortgagor shall not seek to reject the Site Lease and shall seek court approval to comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Mortgagee of the covenant provided for in clause (ii) of the preceding sentence.

(k) Effective upon the entry of an order for relief in respect of Mortgagor under the Bankruptcy Code, Mortgagor hereby assigns and transfers to Mortgagee a non-exclusive right to apply to the bankruptcy court under Section 365(d)(4) of the Bankruptcy Code for an order extending the period during which the Site Lease may be rejected or assumed.

SECTION 2.16. Use of Loan Proceeds. Mortgagor shall use the proceeds of the Loan only for the purposes as set forth in the Loan Agreement which are not primarily for personal, family or household purposes.

ARTICLE III

INSURANCE, CASUALTY AND CONDEMNATION

SECTION 3.01. Insurance. Mortgagor shall comply with all of the terms and provisions and shall maintain, or cause to be maintained, with respect to the Premises the insurance required by the Loan Agreement. If Mortgagor fails to maintain the insurance policies required to be maintained under this Section, Mortgagee shall have the right (but not the obligation) to obtain such insurance policies and pay the premiums therefor. If Mortgagee obtains such insurance policies or pays the premiums therefor, upon demand, Mortgagor shall reimburse Mortgagee for its expenses in connection therewith, together with interest thereon pursuant to Section 4.03.

SECTION 3.02. Casualty and Condemnation. Mortgagor's right to collect or use any Insurance Proceeds or awards resulting from any casualty loss or Condemnation shall be subject to, and applied in accordance with, the terms and provisions of the Loan Agreement. Mortgagor hereby authorizes and directs any affected insurance company and any affected governmental body responsible for such Condemnation to make payment of the Insurance Proceeds or awards directly to Mortgagee. Mortgagor hereby irrevocably assigns to Mortgagee all Insurance Proceeds and awards to which Mortgagor may become entitled by reason of its interests in the Premises if a loss occurs.

ARTICLE IV

EXPENSES AND INDEMNIFICATION

SECTION 4.01. Expenses. Upon written demand, Mortgagor (a) shall reimburse Mortgagee for all out-of-pocket expenses, including reasonable attorneys' fees and expenses, paid or incurred by Mortgagee in connection with (i) any default or alleged default, (ii) the perfection, protection, exercise or enforcement of any right or remedy under or with respect to this Mortgage or any other Loan Document, and (iii) the execution, delivery, administration or performance of this Mortgage or any other Loan Document and any consent or waiver thereunder and any amendment thereof, or (b) if an Event of Default occurs, shall reimburse Mortgagee for all out-of-pocket expenses, including reasonable attorneys' fees and expenses, (i) paid or incurred by Mortgagee in connection with (A) such Event of Default and collection, bankruptcy, insolvency and enforcement proceedings resulting therefrom



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or (B) the exercise or enforcement of any right or remedy under or with respect to this Mortgage or any other Loan Document or (ii) otherwise paid or incurred with respect to this Mortgage or any other Loan Document, together, in each case, with interest thereon at the Default Rate from the date paid by Mortgagee through the date repaid to Mortgagee, as the case may be. All such funds advanced in the reasonable exercise of Mortgagee's judgment that the same are needed to protect the Mortgaged Property, the lien of this Mortgage, or the Obligations are to be deemed obligatory advances hereunder and shall constitute additional indebtedness secured by this Mortgage. The obligations of Mortgagor under this Section shall be part of the Obligations and shall survive any foreclosure or transfer in lieu of foreclosure of this Mortgage and the release of this Mortgage.

SECTION 4.02. Indemnification. To the fullest extent permitted by law, Mortgagor shall protect, defend, indemnify and save harmless Mortgagee, and its stockholders, members, directors, managers, officers, employees, beneficial owners, attorneys, agents and other representatives or affiliates of, and partners in, Mortgagee (each an "Indemnified Person") from and against any and all liabilities, losses, actions, fines, injunctions, obligations, claims, damages (whether direct or consequential), penalties, causes of action, costs and expenses of any kind or nature (including, without limitation, in respect of or for reasonable attorneys' fees and expenses whether incurred within or outside the judicial process), imposed upon or incurred by or asserted against any such Indemnified Person including, without limitation, by reason of (i) this Mortgage or the Mortgaged Property or any interest therein or receipt of any Rents; (ii) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Mortgaged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (iii) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage; (iv) any violation or failure to comply with any Legal Requirement by Mortgagor or the Premises in any way; and (v) performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof, provided that any claims arising out of the willful misconduct or gross negligence of any Indemnified Person or act of any Indemnified Person after taking title to the Premises shall be excluded from the foregoing indemnification of such Indemnified Person. Any amounts payable to Mortgagee by reason of the application of this Section 4.02 shall be secured by this Mortgage as an Obligation and shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Mortgagee until paid. The obligations and liabilities of Mortgagor under this Section 4.02 shall survive any termination, satisfaction, assignment, entry of a judgment of foreclosure or delivery of a mortgage in lieu of foreclosure of this Mortgage and the exercise of any rights or remedies by Mortgagee.

SECTION 4.03. Interest. If any Obligation arising hereunder (including, to the extent permitted under applicable law, any interest obligation) shall not be paid when due, such Obligation shall bear interest at the Default Rate commencing from the due date through the date paid. Such interest shall be part of the Obligations and shall be secured by this Mortgage.

SECTION 4.04. Increased Costs; Change of Taxation. In the event of the enactment after the date hereof of any applicable law deducting from the value of the Premises for the purpose of taxation of any lien thereon or changing in any way the applicable taxation of mortgages, deeds of trust or other liens or obligations secured thereby, or the manner of collection of such taxes, so as to affect this Mortgage, the Obligations or Mortgagee, upon demand by Mortgagee, to the extent permitted under applicable law, Mortgagor shall pay or reimburse Mortgagee for all taxes, assessments or other charges which Mortgagee is obligated to pay as a result thereof; provided, however, if for any reason payment by the Mortgagor of any such new or additional taxes, assessments or other charges would be unlawful or if the payment thereof would constitute usury or render the Loan wholly or partially usurious under any of the terms or provisions of the Loan Agreement, Note, or this Mortgage, or otherwise, the Mortgagee may, at its sole option, upon thirty (30) days' written notice to the Mortgagor, declare the whole indebtedness secured by this Mortgage, with interest thereon, to be immediately due and payable. Such taxes, assessments or other charges shall be part of the Obligations and shall be secured by this Mortgage.

ARTICLE V

DEFAULTS, REMEDIES AND RIGHTS

SECTION 5.01. Events of Default. The occurrence of any of the following events shall be deemed an event of default ("Event of Default") hereunder and shall, at the option of Mortgagee make all amounts then remaining unpaid on the Obligations immediately due and payable, all without further demand, presentment,

notice or other requirements of any kind, all of which are expressly waived by Mortgagor, and the lien, encumbrance and security interest evidenced or created hereby shall be subject to foreclosure in any manner provided for herein or provided for by law and all other remedies available at law or in equity:

(a) The occurrence of any Event of Default (as defined in the Loan Agreement) under the Loan Agreement; or

(b) Mortgagor shall default in the performance or observance of any term, covenant or condition required to be observed by Mortgagor under this Mortgage.

SECTION 5.02. Fixtures. Upon the occurrence of any Event of Default, or at any time thereafter, Mortgagee may, to the extent permitted under applicable law, elect to treat the fixtures included in the Mortgaged Property either as real property or personal property, or both, and proceed to exercise such rights as apply thereto. With respect to any sale of real property included in the Mortgaged Property made under the power of sale herein granted and conferred, Mortgagee may, to the extent permitted by applicable law, include in such sale any personal property and fixtures included in the Mortgaged Property relating to such real property.

SECTION 5.03. Remedies Cumulative. All notice and cure periods provided in this Mortgage, the Loan Agreement or any other Loan Document shall run concurrently with any notice or cure periods provided under applicable law. No remedy or right of Mortgagee hereunder, under the Loan Agreement and any other Loan Document or otherwise, or available under applicable law, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing at law or in equity under any such document or under applicable law. No failure or delay by Mortgagee in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right. Unless otherwise specified in such waiver or consent, a waiver or consent given hereunder shall be effective only in the specific instance and for the specific purpose for which given. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee. All obligations of Mortgagor, and all rights, powers and remedies of Mortgagee expressed herein shall be in addition to, and not in limitation of, those provided by law, equity or in the Loan Agreement and any other Loan Document.

SECTION 5.04. Possession of Premises. Mortgagor hereby waives, while any Event of Default exists, all right to the possession, income, earnings, revenues, issues, profits and Rents of the Premises. Mortgagee or a Receiver (as the case may be as the Person exercising the rights under this Section) is hereby expressly authorized and empowered to the extent permitted by applicable law, but not obligated, while any Event of Default exists, (i) to enter into and upon and take possession of, and operate all facilities on, the Premises or any part thereof, personally, or by its agents or attorneys, and exclude Mortgagor therefrom without liability for trespass, damages or otherwise; (ii) to enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Mortgagor relating to the possession and operation of the Mortgaged Property; (iii) to conduct, either personally or by its agents, the business of the Premises; (iv) to exercise all rights of Mortgagor with respect to the Mortgaged Property, including, without limitation, the right to sue for or otherwise collect the Rents, including those that are unpaid; (v) to complete any alteration or restoration in progress on the Premises at the expense of Mortgagor at reasonable and customary cost or at such cost previously agreed to by Mortgagor, and (vi) to apply all income of the Premises less the necessary or appropriate expenses of collection thereof, either for the operation, care and preservation of the Premises, or, at the election of the Person exercising the rights under this Section in its sole discretion, as provided in Section 5.09 hereof. The Person exercising the rights under this Section is also hereby granted full and complete authority while any Event of Default exists (vii) to employ watchmen to protect the Mortgaged Property; (viii) to continue any and all outstanding contracts for the erection and completion of Improvements to the Premises; (ix) to make all necessary and proper repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises that, in its sole discretion, it may deem appropriate; (x) to insure and reinsure the Premises for all risks incidental to Mortgagee's possession, operation and management thereof; (xi) to make and enter into any contracts or obligations wherever necessary in its own name for the operation, care and preservation of the Mortgaged Property, and (xii) to pay and discharge all debts, obligations and liabilities incurred thereby, all at the expense of Mortgagor. The Person exercising the rights under this Section shall not be liable to account for any action taken hereunder, and shall not be liable for any loss sustained by Mortgagor resulting from any act or omission of such Person, except to the extent such loss is caused by such

Person's willful misconduct or gross negligence. All such expenditures by the Person exercising the rights under this Section shall be Obligations hereunder.

SECTION 5.05. Foreclosure; Receiver. While any Event of Default exists, Mortgagee, with or without entry, shall also have the following rights:

(a) to institute a proceeding or proceedings, by advertisement, judicial process or otherwise, as provided under applicable law, for the complete or partial foreclosure of this Mortgage or the complete or partial sale of the Mortgaged Property under the power of sale hereunder or under any applicable provision of law;

(b) to sell the Mortgaged Property and all estate, right, title and interest of Mortgagor therein as a whole or in separate parcels, at one or more sales, at such time and place and upon such terms and conditions as may be required by applicable law;

(c) to take such steps to protect and enforce rights, whether by action, suit or proceeding in equity or at law, for the specific performance of any provision in the Loan Documents, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy Mortgagee shall elect;

(d) to apply for the appointment of a receiver, supervisor, trustee, liquidator, conservator or other custodian (a "Receiver") of the Mortgaged Property or any part thereof and all earnings, revenues, Rents, issues, profits and income thereof, to the extent permitted by law without giving notice to any other party and without regard to the adequacy or inadequacy of the security of the Mortgaged Property or the solvency of either Mortgagor or any other Person and Mortgagor agrees that it shall not oppose the appointment of a Receiver; and

(e) to take all such other steps and to assert all such other rights and remedies as shall be permitted by applicable law.

The purchase money, proceeds or avails of any foreclosure or sale after default and any other sums which then may be held by Mortgagee under this Mortgage shall be applied as provided in Section 5.09 hereof.

SECTION 5.06. Power of Sale

(a) Upon the occurrence of a Default, Mortgagee, or the agent or successor of Mortgagee, at the request of Mortgagee, shall sell or offer for sale the Mortgaged Property in such portions, order and parcels as Mortgagee or Mortgagee may determine (in accordance with applicable law) with or without having first taken possession of same, to the highest bidder for cash at one or more public auctions in accordance with the terms and provisions of the law of the State in which the Mortgaged Property is located. Such sale shall be made in accordance with applicable law and at the area within the courthouse of the county or city in which the Mortgaged Property (or any portion thereof to be sold) is situated (whether the parts or parcels thereof, if any, in different counties are contiguous or not, and without the necessity of having any personal property hereby secured present at such sale) which is designated by the applicable court of such county or city as the area in which public sales are to take place, or, if no such area is designated, at the area at the courthouse designated in the notice of sale as the area in which the sale will take place, on such day and at such times as permitted under applicable law of the State where the Mortgaged Property is located, after advertising the time, place and terms of sale and that portion of the Mortgaged Property in accordance with such law, and after having served written or printed notice of the proposed sale by certified mail on each Mortgagor obligated to pay the Note and other secured indebtedness secured by this Mortgage according to the records of Mortgagee in accordance with applicable law. The affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of service.

At any such public sale, Mortgagee may execute and deliver in the name of Mortgagor to the purchaser a conveyance of the Mortgaged Property or any part of the Mortgaged Property. In the event of any sale under this Mortgage by virtue of the exercise of the powers herein granted, or pursuant to any order in any judicial proceeding or otherwise, the Mortgaged Property may be sold in its entirety or in separate parcels and in such manner or order

as Mortgagee in its sole discretion or Mortgagee may elect (as permitted by applicable law), and if Mortgagee so elects, Mortgagee may sell the personal property covered by this Mortgage at one or more separate sales in any manner permitted by the Uniform Commercial Code of the State in which the Mortgaged Property is located, and one or more exercises of the powers herein granted shall not extinguish or exhaust such powers, until all the Mortgaged Property is sold or the Note and other secured indebtedness is paid in full. If the Note and other secured indebtedness is now or hereafter further secured by any chattel mortgages, pledges, contracts or guaranty, assignments of lease, or other security instruments, Mortgagee at its option may exhaust the remedies granted under any of said security instruments either concurrently or independently, and in such order as Mortgagee may determine. In the event the Property is advertised for sale as herein provided but not sold pursuant to such advertisement, Mortgagor shall pay the actual expenses incurred by the Mortgagee in connection therewith.

(b) Upon any foreclosure sale or sales of all or any portion of the Mortgaged Property under the power herein granted, Mortgagee may bid for and purchase the Mortgaged Property and shall be entitled to apply all or any part of the Indebtedness as a credit to the purchase price.

In the event of a foreclosure or a sale of all or any portion of the Mortgaged Property under the power herein granted, the proceeds of said sale shall be applied, to the extent permitted by applicable law, in whatever order Mortgagee in its sole discretion may decide, to the expenses of such sale and of all proceedings in connection therewith (including, without limitation, attorneys' fees and expenses), to fees and expenses of Mortgagee (including, without limitation, Mortgagee's attorneys' fees and expenses), to insurance premiums, liens, assessments, taxes and charges (including, without limitation, utility charges advanced by Mortgagee), to payment of the outstanding principal balance of the Indebtedness, and to the accrued interest on all of the foregoing; and the remainder, if any, shall be paid to Mortgagor, or to the person or entity lawfully entitled thereto.

In the event the provisions of this Section 5.06 contradict or are inconsistent with Section 5.09, this Section 5.06 shall control.

SECTION 5.07. No Liability on Mortgagee. Notwithstanding anything contained herein, this Mortgage is only intended as security for the Obligations and Mortgagee shall not be obligated to perform or discharge, and Mortgagee need not perform or discharge, any obligation, duty or liability of Mortgagor with respect to any of the Mortgaged Property. Mortgagee shall not have responsibility for the control, care, management or repair of the Premises nor shall Mortgagee be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Mortgaged Property resulting in loss or injury or death to any licensee, employee, tenant or stranger. No liability shall be enforced or asserted against Mortgagee in its exercise of the powers herein granted to it, and Mortgagor expressly waives and releases any such liability. Should Mortgagee or any Person exercising rights on its behalf incur any such liability, loss or damage, under or by reason hereof, or in the defense of any claims or demands, Mortgagor agrees to reimburse Mortgagee and such Person, immediately upon demand (provided such demand is accompanied by an itemized statement) for the amount thereof, including costs, expenses and reasonable attorneys' fees, and any such obligations of Mortgagor shall be Obligations hereunder and shall survive any foreclosure or transfer in lieu of foreclosure of this Mortgage and the release of this Mortgage.

SECTION 5.08. Assignment of Leases.

(a) Subject to paragraph (d) below, the assignments of the Leases and the Rent under Granting Clauses VI and VII are and shall be present, absolute and irrevocable assignments by Mortgagor to Mortgagee and, subject to the license to Mortgagor under Section 5.08(b), Mortgagee or a Receiver appointed pursuant to Section 5.05(d) (as the case may be as the Person exercising the rights under this Section) shall have the absolute, immediate and continuing right to collect and receive all Rents now or hereafter, including during any period of redemption, accruing with respect to the Premises. At the request of Mortgagee or such Receiver, Mortgagor shall promptly execute, acknowledge, deliver, record, register and file any additional general assignment of the Leases or specific assignment of any Lease which Mortgagee or such Receiver may require from time to time (all in form and substance reasonably satisfactory to Mortgagee or such Receiver) to effectuate, complete, perfect, continue or preserve the assignments of the Leases and the Rents under Granting Clauses VI and VII.

(b) As long as no Event of Default exists, Mortgagor shall have the right under a license granted hereby, subject to Section 5.08(c), to collect all Rents upon, but not prior to fifteen (15) days before, the due date thereof.

(c) If any Event of Default exists, Mortgagee or Receiver appointed pursuant to Section 5.05(d) (as the case may be as the Person exercising the rights under this Section) shall have the right to do any of the following: (i) terminate the license granted under Section 5.08(b) by notice to Mortgagor (ii) exercise the rights and remedies provided to Mortgagor under the Site Lease; (iii) exercise the rights and remedies provided under Section 5.04, Section 5.05 or under applicable law; (iv) as attorney in-fact or agent of Mortgagor, or in its own name as the Person exercising the rights under this Section and under the powers herein granted, hold, operate, manage and control the Premises and all other Mortgaged Property, either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper and necessary to enforce the payment of any Rents, the Leases and other Mortgaged Property relating thereto (including actions for the recovery of Rent, actions in forcible detainer and actions in distress of Rent); (v) cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (vi) elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof; and (vii) perform such other acts in connection with the management and operation of the Mortgaged Property as the Person exercising the rights under this Section in its discretion may deem proper, Mortgagor hereby granting full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times while an Event of Default exists without notice to Mortgagor.

(d) Nothing in this Section 5.08 shall be construed to be an assumption by the Person exercising the rights under this Section, or to otherwise make such Person liable for the performance, of any of the obligations of Mortgagor under the Leases.

SECTION 5.09. Sales. Except as otherwise provided herein, to the extent permitted under applicable law, at the election of Mortgagee, the following provisions shall apply to any sale of the Mortgaged Property hereunder, whether made pursuant to the power of sale hereunder, any judicial proceeding, or any judgment or decree of foreclosure or sale or otherwise;

(a) Mortgagee or the court officer (as the case may be as the Person conducting any sale) may conduct any number of sales as Mortgagee may direct from time to time. The power of sale hereunder or with respect hereto shall not be exhausted by any sale as to any part or parcel of the Mortgaged Property which is not sold, unless and until the Obligations shall have been paid in full, and shall not be exhausted or impaired by any sale which is not completed or is defective. A sale may be as a whole or in part or parcels and Mortgagor hereby waives its right to direct the order in which the Mortgaged Property or any part or parcel thereof is sold.

(b) Any sale may be postponed or adjourned by public announcement at the time and place appointed for such sale or such postponed or adjourned sale without further notice.

(c) Any statement of fact or other recital made in any instrument given by the Person conducting any sale as to the nonpayment of any Obligation, the existence of an Event of Default, the amount of the Obligations due and payable, the request to Mortgagee to sell, the notice of the time, place and terms of sale and of the Mortgaged Property to be sold having been duly given, or any other act or thing having been duly done or not done by Mortgagor, Mortgagee, or any other Person, shall be taken as conclusive and binding against all other Persons as evidence of the truth of the facts so stated or recited.

(d) Any sale shall operate to divest all of the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the Mortgaged Property sold, and (to the extent permitted under applicable law) shall be a perpetual bar both at law and in equity against Mortgagor and any and all Persons claiming such Mortgaged Property or any interest therein by, through or under Mortgagor.

(e) At any sale, Mortgagee may bid for and acquire the Mortgaged Property sold and, in lieu of paying cash therefor may make settlement for the purchase price by causing the Secured Parties to credit against the Obligations, including the expenses of the sale and the cost of any enforcement proceeding hereunder, the amount of the bid made therefor to the extent necessary to satisfy such bid.

(f) In the event that Mortgagor or any Person claiming by, through or under Mortgagor shall transfer or fail to surrender possession of the Mortgaged Property after any sale thereof, then Mortgagor or such Person shall be deemed tenant at sufferance of the purchaser at such sale, subject to eviction by means of forcible entry and unlawful detainer proceedings, or subject to any other right or remedy available, hereunder or under applicable law.

(g) Upon any sale, it shall not be necessary for the Person conducting such sale to have any Mortgaged Property being sold present or constructively in its possession.

(h) To the extent permitted under applicable law, in the event that a foreclosure hereunder shall be commenced by Mortgagee, Mortgagee may at any time before the sale abandon the sale, and may institute suit for the collection of the Obligations or for the foreclosure of this Mortgage; or in the event that Mortgagee should institute a suit for collection of the Obligations or the foreclosure of this Mortgage, Mortgagee may at any time before the entry of final judgment in said suit dismiss the same and sell the Mortgaged Property in accordance with the provisions of this Mortgage.

SECTION 5.10. Application of Proceeds. The proceeds of any sale of any of the Mortgaged Property made pursuant to this Article V shall be applied as follows:

(a) First, to the payment of all costs and expenses incident to the enforcement of this Mortgage paid or incurred by Mortgagee or the agent for enforcement, protection or collection, including, without limitation, reasonable costs, attorneys' fees, stenographers' fees, costs of advertising, costs of documentary evidence of title (including title search and insurance), all other related charges and costs, and a reasonable compensation to the agents, attorneys and in-house counsel of Mortgagee and of agent;

(b) Second, to the payment or prepayment of the Obligations, in such order as Mortgagee shall elect; and

(c) Third, the remainder, if any, shall be paid to Mortgagor or such other person or persons as may be entitled thereto by law;

provided, however, if applicable law requires such proceeds to be paid or applied in a manner other than as set forth above in this Section 5.10, then such proceeds shall be paid or applied in accordance with such applicable law.

ARTICLE VI

GENERAL

SECTION 6.01. Fixture Filing. To the extent that the Mortgaged Property includes items of personal property which are or are to become fixtures under applicable law, and to the extent permitted under applicable law, the filing of this Mortgage in the real estate records of the county in which such Mortgaged Property is located shall also operate from the time of filing as a fixture filing with respect to such Mortgaged Property, and the following information is applicable for the purpose of such fixture filing, to wit:

(a) Name and Address of the Debtor:

Valenti Southeast Realty, LLC
3450 Buschwood Park Drive
Suite 195
Tampa, Florida 33618
Attention: Mr. Steven M. Nesbitt

(b) Name and Address of the Secured Party:

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Shelby Cnty Judge of Probate, AL
06/22/2005 10:22:53AM FILED/CERT

Bank of America, N.A.
GA1-006-13-20
600 Peachtree Street, NE
Atlanta, Georgia 30308-2214
Attention: Chief Credit Officer, Franchise Financial Services

(c) This financing statement covers goods or items of personal property which are or are to become fixtures upon the Premises.

(d) Name and address of record owners:

Metropolitan Life Insurance Company
c/o Taylor & Mathis of Alabama, Inc.
P.O. Box 43248
Birmingham, AL 35243
Attention: _____

SECTION 6.02. Defeasance. If all of the Obligations shall have been paid in full, and if Mortgagor shall have performed and observed all the covenants, obligations and conditions to be performed by Mortgagor pursuant to the Loan Documents, and each of the Loan Documents shall have been terminated, then this Mortgage shall cease, terminate and, thereafter, be of no further force or effect (except as provided in Sections 4.01, 4.02 and 5.07). Upon such termination and Mortgagor's request, appropriate release shall promptly be made by Mortgagee to the Person or Persons legally entitled thereto at Mortgagor's expense.

SECTION 6.03. Notices. Each notice, demand or other communication given to Mortgagor or Mortgagee in connection with this Mortgage shall be given in the manner set forth in the Loan Agreement and shall be sent to the addresses shown below or such other addresses which the parties may provide to one another in accordance with the Loan Agreement.

To Mortgagee: Bank of America, N.A.
GA1-006-13-20
600 Peachtree Street, NE
Atlanta, Georgia 30308-2214
Attention: Chief Credit Officer, Franchise Financial Services
Telecopy No.: 404/607-4075

With a copy to: Morris, Manning & Martin, L.L.P.
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta, Georgia 30326
Attention: Frederick C. C. Boyd, III, Esq.
Telecopy No.: 404-365-9532

To Mortgagor: Valenti Southeast Realty, LLC
3450 Buschwood Park Drive
Suite 195
Tampa, Florida 33618
Attention: Mr. Steven M. Nesbitt
Telecopy No.: 813/932-0854

SECTION 6.04. Amendments in Writing. No amendment, consent, waiver or supplement in any way affecting Mortgagor's obligations or Mortgagee's rights under this Mortgage shall in any event be effective unless contained in a writing signed by Mortgagee.

SECTION 6.05. Governing Law; Construction. This Mortgage shall be governed by the law of the state in which the Land is situated.

SECTION 6.06. Successors and Assigns The covenants and agreements of Mortgagor hereunder, and the provisions hereof affecting Mortgagor, shall bind Mortgagor hereunder, its successors and assigns and all Persons claiming by, through or under Mortgagor and shall inure to the benefit of Mortgagor and its successors and permitted assigns. The rights and privileges of Mortgagee hereunder, and the provisions hereof affecting Mortgagee, shall inure to the benefit of Mortgagee hereunder and its successors and assigns.

SECTION 6.07. Waiver. Mortgagor waives, on behalf of itself and all Persons now or hereafter interested in the Premises or the other Mortgaged Property, to the fullest extent permitted by applicable law, (i) all rights under all appraisal, homestead, moratorium, valuation, exemption, stay, extension, redemption, single action, election of remedies and marshalling statutes, laws or equities now or hereafter existing, (ii) any benefit of any law providing for the valuation or appraisal of the Premises or the other Mortgaged Property or any part thereof prior to any sale thereof; (iii) after any such sale, claim or exercise any right to redeem the property so sold or any part thereof; (iv) all benefit or advantage of any such law and covenants not to hinder, delay or impede the execution by Mortgagee of any power or remedy herein granted or available at law or in equity, but to suffer and permit the execution of every power and remedy as though no such law existed and (v) any and all requirements that at any time any action may be taken against any other Person. Mortgagor hereby acknowledges and agrees that no defense based on any of the foregoing will be asserted in any action enforcing this Mortgage.

SECTION 6.08. WAIVER OF JURY TRIAL. MORTGAGOR AND MORTGAGEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS MORTGAGE, THE NOTE OR ANY OTHER LOAN DOCUMENT OR FOR ANY COUNTERCLAIM THEREIN.

SECTION 6.09. No Redemption. Mortgagor hereby waives, to the fullest extent permitted by applicable law, any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage or under any power contained herein on its own behalf and on behalf of each and every Person acquiring any interest in or title to the Premises subsequent to the date of this Mortgage.

SECTION 6.10. Limitation by Law. All rights, remedies and powers provided in this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Mortgage are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Mortgage illegal, invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered, or filed under the provisions of any applicable law.

SECTION 6.11. Mortgagee's Performance If Mortgagor shall fail to pay or perform any of its obligations herein contained (including, without limitation, payment of expenses of foreclosure and court costs) or under the Loan Documents each with respect to the Mortgaged Property, Mortgagee upon five (5) days prior written notice to Mortgagor (except as otherwise expressly permitted by any Loan Document in the event of an emergency when no notice need be given) may, but need not, make (or cause to be made) any such payment or perform (or cause to be performed) any such obligation of Mortgagor hereunder or thereunder (provided Mortgagor is not contesting such payment or performance in accordance with Section 2.09 and the failure to so perform such obligation would have a Material Adverse Effect), in any form and manner deemed reasonably expedient by Mortgagee as agent or attorney-in-fact of Mortgagor, and any amount so paid or expended (plus reasonable compensation to Mortgagee for its out-of-pocket and other expenses (including legal expenses) for each matter for which it acts under this Mortgage), with interest thereon at the Default Rate, shall be added to the Obligations and shall be repaid to Mortgagee upon demand. No such action of Mortgagee shall be considered as a waiver of any

right accruing to it on account of the occurrence of any default on the part of Mortgagor under this Mortgage, any default, any Event of Default, or any default or event of default under any other Loan Document.

SECTION 6.12. Subrogation. To the extent that Mortgagee, after the date hereof, pays pursuant to the terms of this Mortgage any sum due under any provision of law or any instrument or documents creating any lien prior or superior to the lien of this Mortgage, Mortgagee shall have and be entitled to a lien on the Mortgaged Property equal in priority to that discharged, and Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence for the benefit of Mortgagee to secure the amount expended by Mortgagee on account of or in connection with such lien.

SECTION 6.13. Conflicting Provisions To the extent there exists any conflict or inconsistency between the terms of this Mortgage and the terms of the Loan Agreement, the terms of the Loan Agreement shall govern.

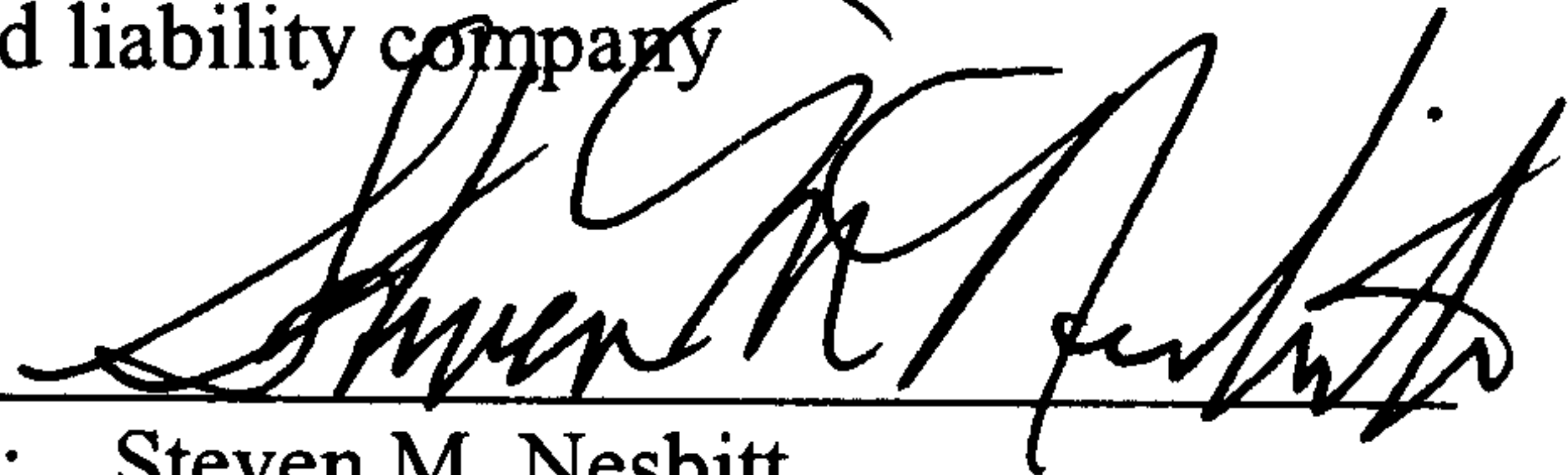
SECTION 6.14. Counterparts. This Mortgage may be executed in any number of identical counterparts, any set of which signed by all the parties hereto shall be deemed to constitute a complete, executed original for all purposes.

[Signatures begin on next page.]

IN WITNESS WHEREOF, Mortgagor has duly executed and delivered this Mortgage as of the date first written above.

MORTGAGOR:

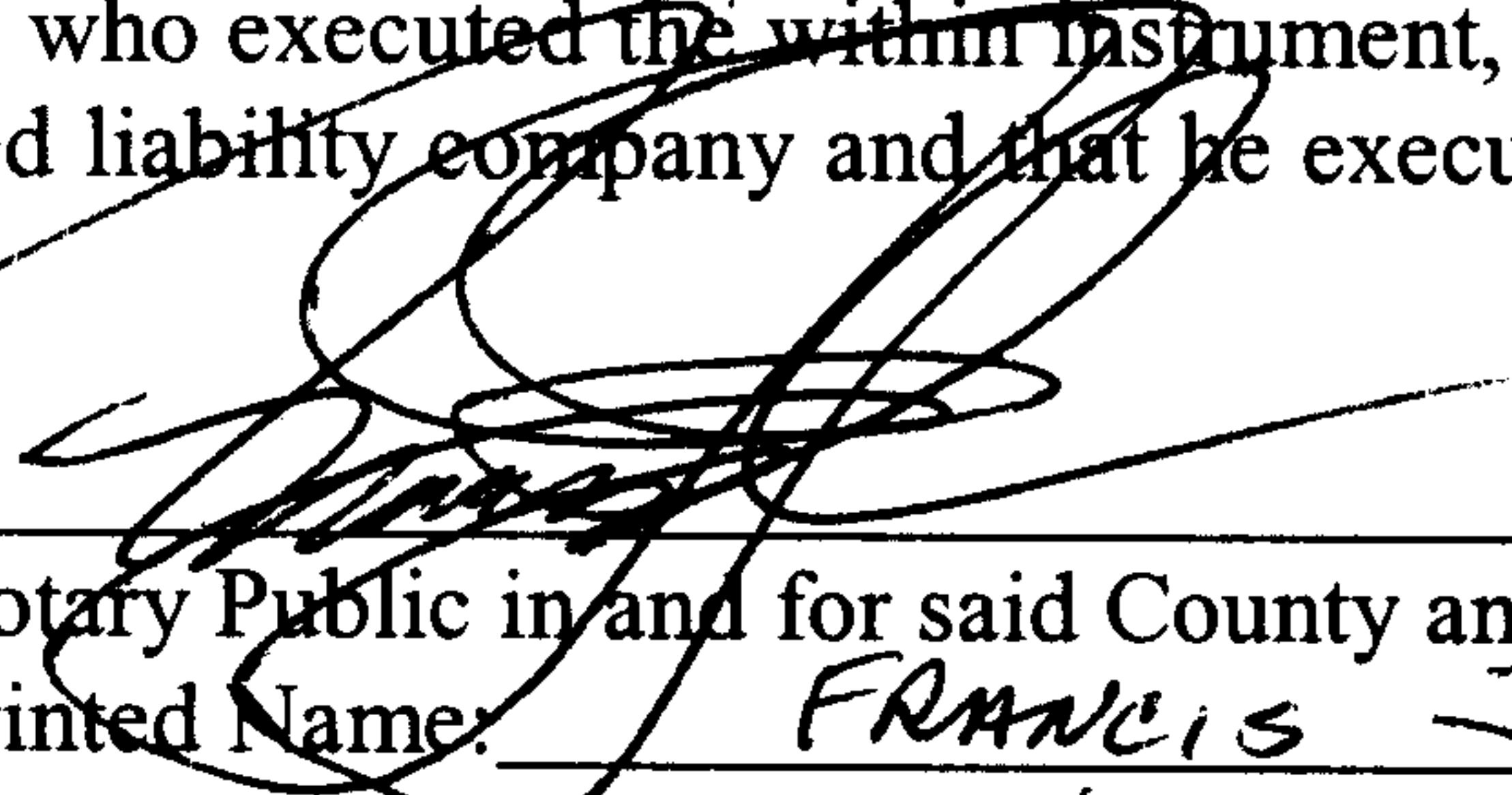
VALENTI SOUTHEAST REALTY, LLC, a Florida
limited liability company

By: 
Name: Steven M. Nesbitt
Title: Chief Financial Officer

STATE OF ILLINOIS §
COUNTY OF CHAMPAIGN §

On this ____ day of Aug., 2004, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Steven M. Nesbitt, the Chief Financial Officer of VALENTI SOUTHEAST REALTY, LLC, a Florida limited liability company, and thereupon he acknowledged under oath to my satisfaction that he is the person who executed the within instrument, that he was authorized to execute the within instrument on behalf of said limited liability company and that he executed said instrument as the voluntary act of the said limited liability company.

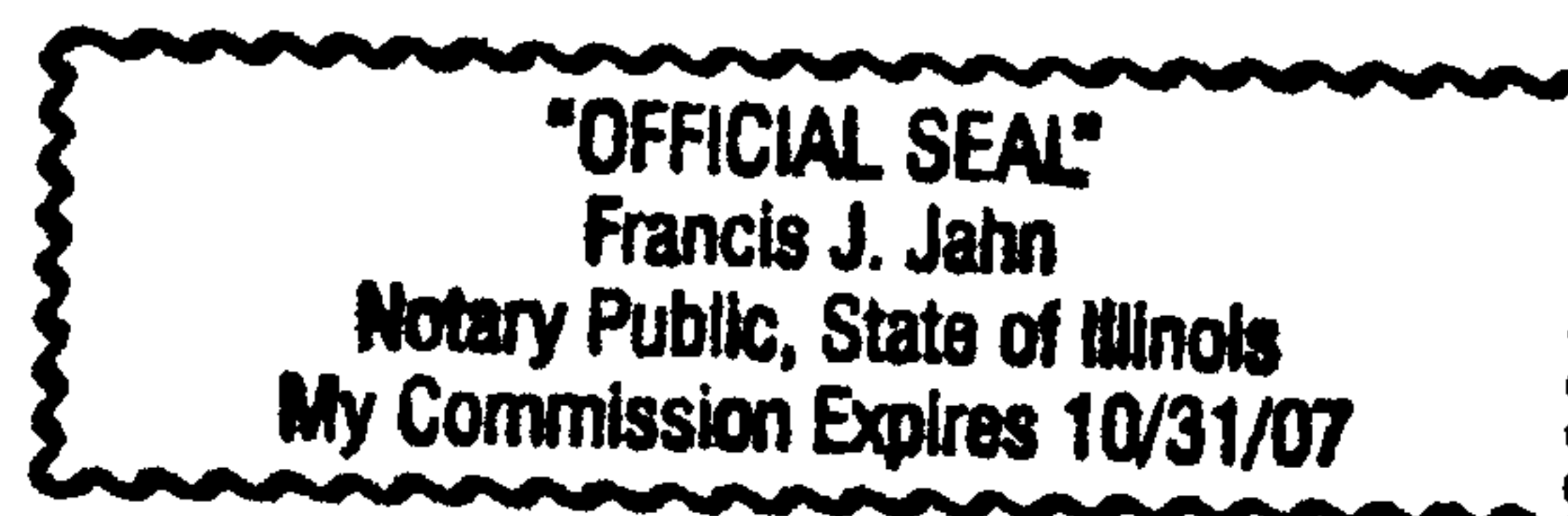
Signature


Notary Public in and for said County and State

Printed Name: FRANCIS J. JAHN

My Commission Expires: 10/31/07

(NOTARIAL SEAL)



This instrument was prepared
by and when recorded should
be returned to:
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road
Atlanta, GA 30326
Attn: Frederick C. C. Boyd, III, Esq.



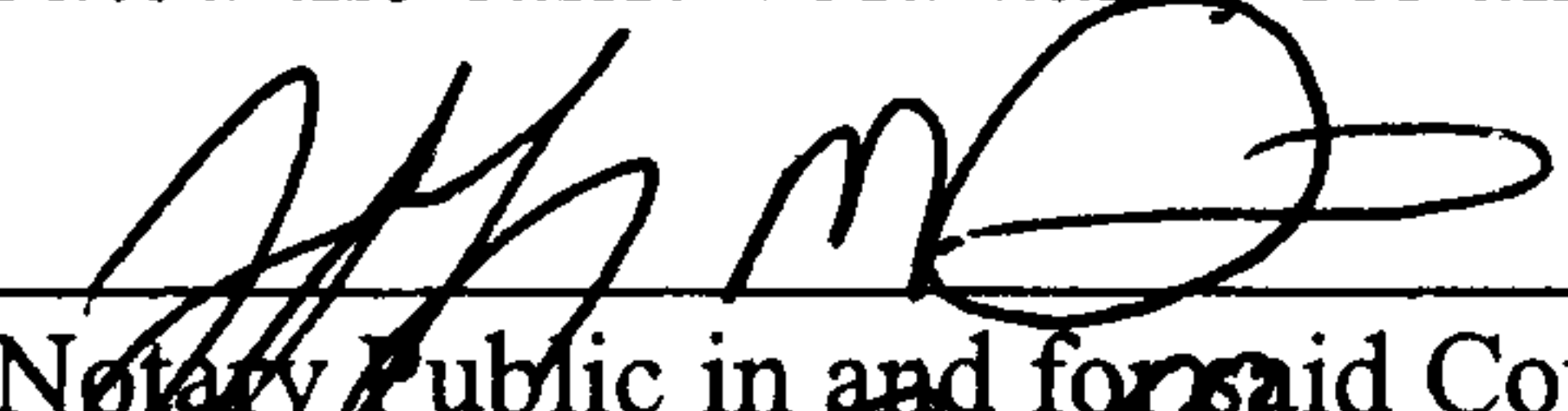
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Shelby Cnty Judge of Probate, AL
06/22/2005 10:22:53AM FILED/CERT

STATE OF ILLINOIS

COUNTY OF CHAMPAIGN

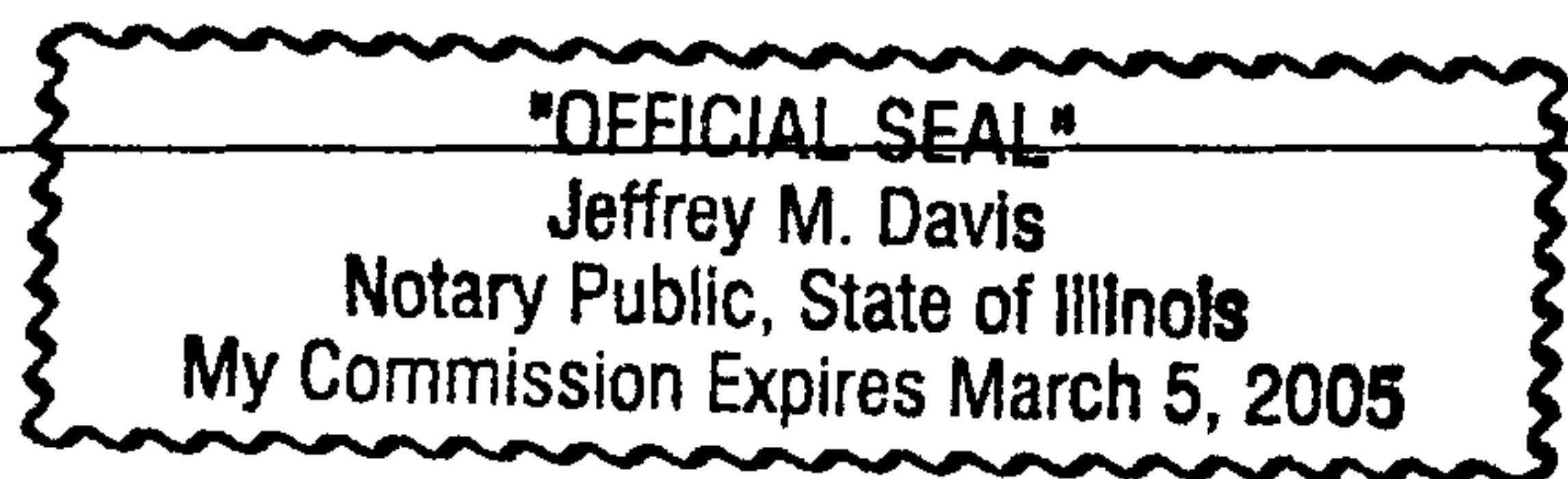
I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Steven M. Nesbitt, the Chief Financial Officer of VALENTI SOUTHEAST REALTY, LLC, a Florida limited liability company, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Signature


Notary Public in and for said County and State
Printed Name: Jeffrey M. Davis

My Commission Expires: _____

(NOTARIAL SEAL)



This instrument was prepared
by and when recorded should
be returned to:

Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road
Atlanta, GA 30326
Attn: Frederick C. C. Boyd, III, Esq.

ACKNOWLEDGMENT

STATE OF Illinois
COUNTY OF Champaign

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Steven M. Nesbitt, the Chief Financial Officer of VALENTI SOUTHEAST MANAGEMENT, LLC, a Florida limited liability company, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

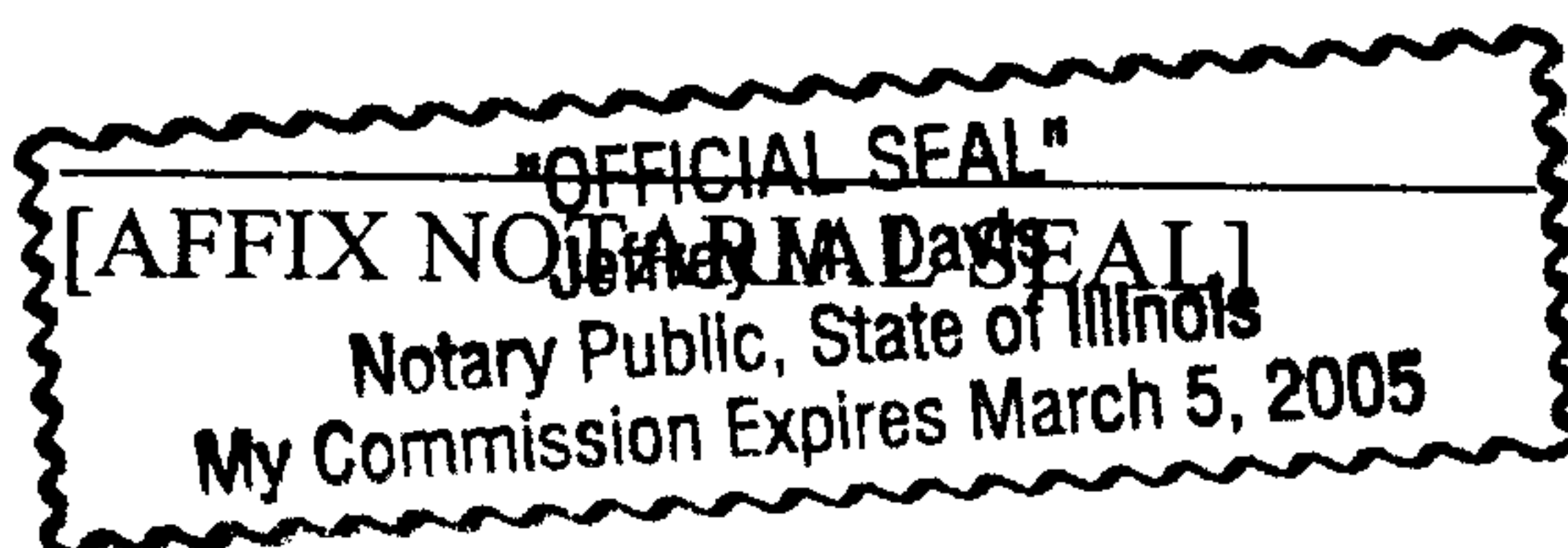
Given under my hand and official seal, this 4th day of August, 2004.

Notary Public

Printed Name: Jeffrey M. Davis

My Commission Expires: March 5, 2005

My commission expires:

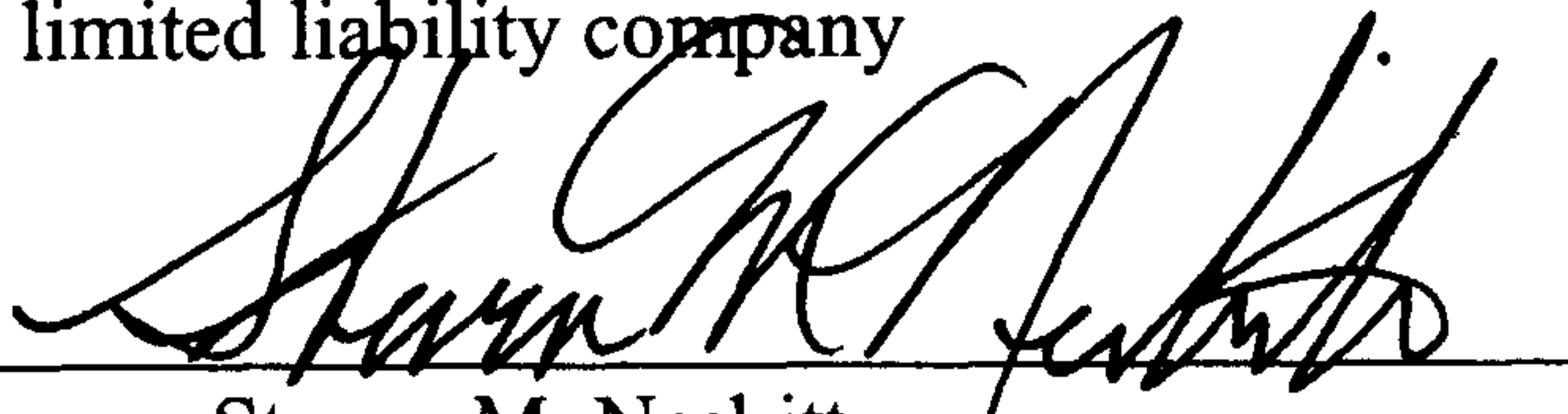


JOINDER OF TENANT

The undersigned, as tenant of the Mortgaged Property pursuant to that certain Master Lease Agreement dated August 5, 2004 by and between Valenti Southeast Realty, LLC, a Florida limited liability company and Valenti Southeast Management, LLC, a Florida limited liability company, together with any and all renewals, extensions, amendments, modifications, restatements and supplements thereto (the "Lease"), hereby joins in the execution and delivery of this Mortgage for the purpose of subordinating its interest in the Lease to this Mortgage and the liens created in favor of Mortgagee hereunder and in favor of Mortgagee under the other Loan Documents, and the undersigned, on its own behalf and on behalf of its successors and assigns, hereby covenants and agrees with and for the benefit of Mortgagee and its respective successors and assigns that the Lease and all right, title and interest of the undersigned, its successors and assigns, in, to and under the Lease shall be and are hereby made and shall continue to be subject and subordinate in all respects to the Mortgage, the other Loan Documents, the liens created in favor of or for the benefit of Mortgagee thereunder, and to any and all amendments, modifications, supplements, restatements, renewals and extensions of any of the foregoing.

IN WITNESS WHEREOF, the undersigned has executed this Joinder as of the day and year first written above.

VALENTI SOUTHEAST MANAGEMENT, LLC, a
Florida limited liability company

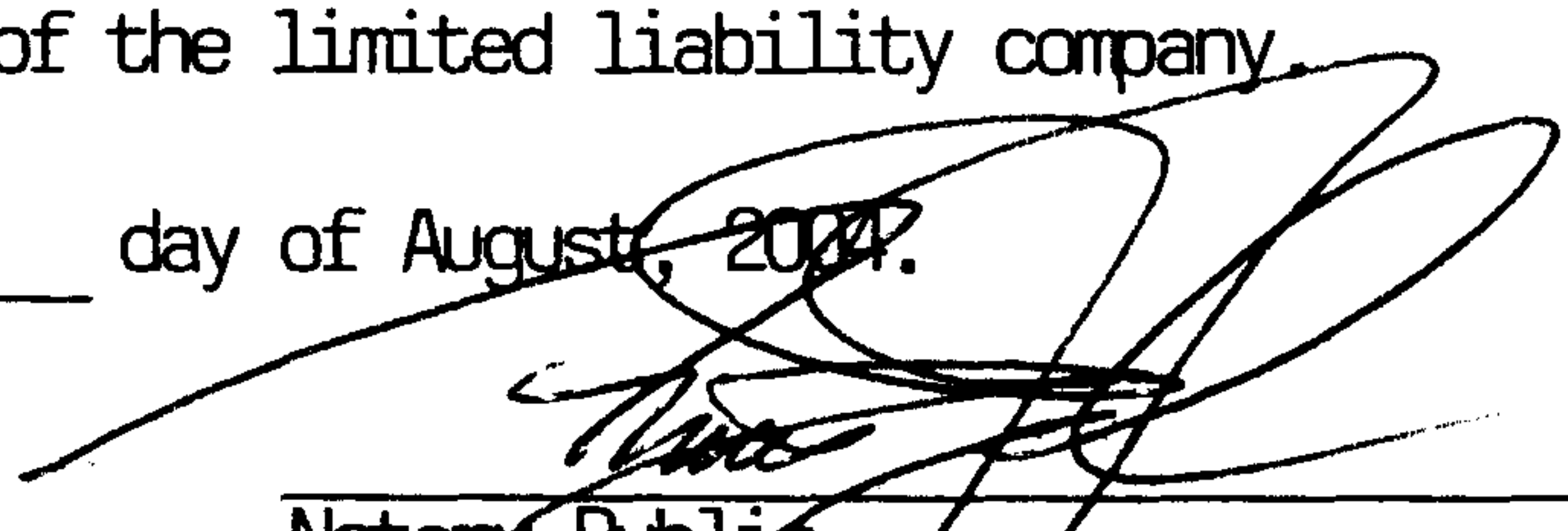
By: 
Name: Steven M. Nesbitt
Title: Chief Financial Officer

ACKNOWLEDGMENT

STATE OF ILLINOIS
COUNTY OF CHAMPAIGN

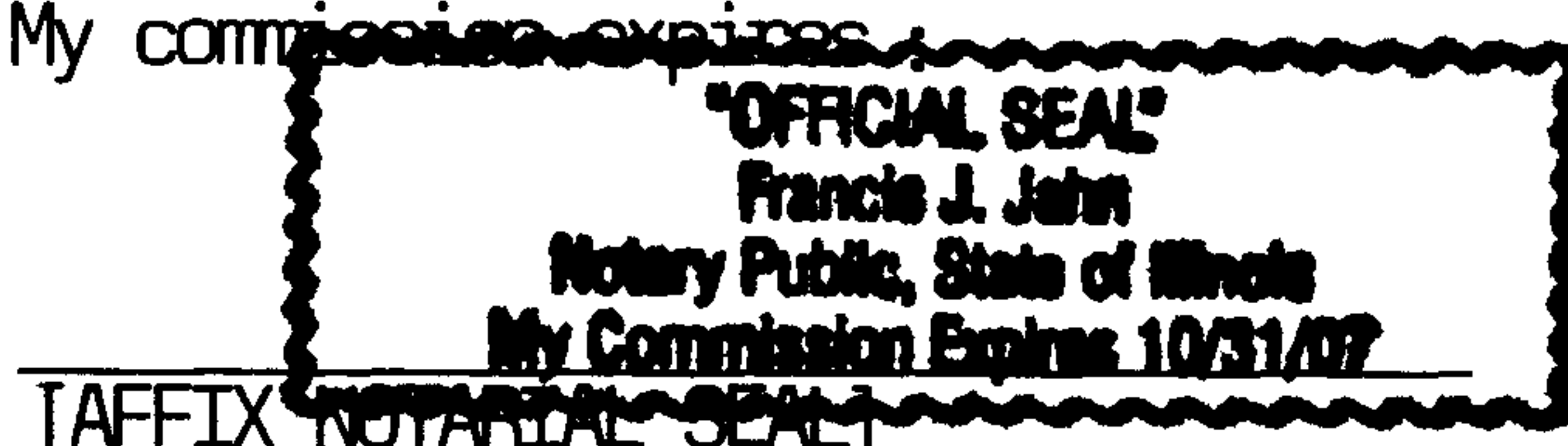
Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Steven M. Nesbitt, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence and who, upon oath, acknowledged that (s)he is the Chief Financial Officer of Valenti Southeast Management, LLC, a Florida limited liability company, the within named bargainer, and that (s)he executed the foregoing Joinder for the purposes therein contained by signing the name of said limited liability company in his capacity as manager on behalf of the limited liability company.

Witness my hand, at office, this _____ day of August, 2004.


Notary Public
Printed Name: FRANCIS J. JAHN

My Commission Expires: 10/31/07

My commission expires _____





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Shelby Cnty Judge of Probate, AL
06/22/2005 10:22:53AM FILED/CERT

Exhibit A
04-000356

Part of the Southeast quarter of the Southeast quarter of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama and being more particularly described as follows:

Commence at the Southeast corner of said Southeast quarter of Southeast quarter and run North along the East line of same 1086.16 feet to a point on a curve on the Southwesterly right of way of U.S. Highway No. 280 said curve having a radius of 3474.05 feet and a central angle of $5^{\circ} 31' 42''$; thence left $66^{\circ} 13' 41''$ to the tangent of said point on curve and run Northwesterly along said right of way and arc of said curve 335.20 feet to the point of tangent; thence continue tangent of right of way in a Northwesterly direction 455.55 feet to the point of beginning of herein described Out Parcel A; thence left $90^{\circ} 00'$ and run Southwesterly 226.00 feet; thence right $45^{\circ} 00'$ and run Southwesterly 21.21 feet; thence right $45^{\circ} 00'$ and run Northwesterly 227.27 feet to a point on curve on the Southeasterly right of way of Shelby County Highway No. 17 (Valleydale Road) said curve having a radius of 1487.42 feet and a central angle of $1^{\circ} 25' 21''$; thence right $91^{\circ} 22' 26''$ to the tangent of said point on curve and run Northeasterly along said right of way and arc of said curve 36.93 feet to the point of tangent; thence continue Northeasterly along said tangent of right of way 200.21 feet to a point on the Southwesterly right of way of said U.S. Highway No. 280; thence right $86^{\circ} 52' 20''$ and run Southeasterly along said right of way 69.95 feet to an angle point of said right of way; thence right $3^{\circ} 10' 15''$ and continue Southeasterly along said right of way 172.15 feet to the point of beginning.

EXHIBIT A Part II

"Site Lease"

Lease with an Effective Date (as defined in the Lease) of August 6, 1990 by and between METROPOLITAN LIFE INSURANCE COMPANY, as Lessor and Valenti Southeast Realty, LLC as Lessee.


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Shelby Cnty Judge of Probate, AL
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